

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT TUNSTALL,

Petitioner,

No. CIV S-04-2658 RRB JFM P

vs.

TERESA A. SCHWARTZ, et al.,

Respondents.

ORDER

Petitioner, a state prisoner proceeding pro se, has timely filed a notice of appeal of this court's March 17, 2008 denial of his application for a writ of habeas corpus together with an application for a certificate of appealability. See 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

A certificate of appealability may issue under 28 U.S.C. § 2253 "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The court must either issue a certificate of appealability indicating which issues satisfy the required showing or must state the reasons why such a certificate should not issue. Fed. R. App. P. 22(b).

For the reasons set forth in the magistrate judge's February 15, 2008 findings and recommendations, petitioner has not made a substantial showing of the denial of a constitutional right.

DATED: April 10, 2008

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